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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : James W. Baumgartner *et al.*      Examiner : E. Lazar-Wesley, Ph.D.  
Serial No. : 08/815,773      Art Unit : 1646  
Filed : March 12, 1997      Docket No. : 95-33  
For : Testis-Specific Receptor

**Amendment and Response Under 37 CFR §1.111**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action dated May 7, 2001, Applicants submit the following remarks.

***REMARKS***

The Examiner has reopened prosecution of this application, and the Examiner has rejected claims 33 to 38 under 35 USC §102(e), as being anticipated by Collins *et al.*, U.S. Patent No. 5,710,023, or by Collins *et al.*, U.S. Patent No. 6,214,559. Applicants respectfully traverse the bases for this rejection.

On August 21, 1998, and March 2, 1999, Applicants filed Rule 131 Declarations and the Declaration of Gary E. Parker, evidencing that the '023 patent is not available as §102(e) prior art against the presently claimed invention. In a Communication dated May 19, 1999, the Examiner stated that claims 33 to 38 are allowable (Paper No. 14). Thus, the pending §102(e) rejection cannot be supported by the '023 patent. The '559 patent issued from a divisional application of 08/609,572, which issued as the '023 patent. Since Applicants eliminated the '023 patent as §102(e) prior art against claims 33 to 38, the '559 patent cannot support a §102(e) rejection of the same claims.